
Introduced by: Mr. Ryan
7/23/96

ORDINANCE NO. 96- 138

**TO AMEND CHAPTER 38 OF
THE NEW CASTLE COUNTY CODE RELATING TO
THE REGULATION OF NON-DOMESTIC WASTEWATER DISCHARGES**

WHEREAS, New Castle County owns and operates wastewater treatment facilities; and

WHEREAS, New Castle County has implemented an industrial pretreatment program pursuant to conditions contained in National Pollutant Discharge Elimination System Permit No. DE0050547, issued by the State of Delaware; and

WHEREAS, federal regulations governing industrial pretreatment programs, 40 CFR Parts 125 and 403, specifically mandate minimum local legal authority in order to enforce the requirements of the County's industrial pretreatment program; and

WHEREAS, the United States Environmental Protection Agency reviewed New Castle County Code, Chapter 38, Division 8, entitled "Regulation of Non-Domestic Wastewater Discharges into the Public Sewer System," and found that the County's legal authority needs to be strengthened; and

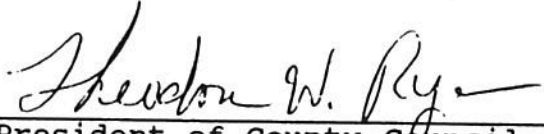
WHEREAS, the following revisions are proposed in order to bring the New Castle County Code into compliance with federal regulations.

THE COUNCIL OF THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. Chapter 38, Article II, Division 8 of the New Castle County Code is hereby amended by deleting the language within brackets and adding the language underlined in Exhibit "A".

Section 2. This Ordinance shall become effective immediately upon its adoption.

Adopted by County Council of
New Castle County on: 9/10/96



President of County Council of
New Castle County

Approved on: 9/18/95



County Executive

SYNOPSIS: The Amendment relates to reporting requirements, discharge permit conditions, and technical details in the implementation of the County's existing industrial pretreatment program.

FISCAL NOTE: This Amendment shall have no fiscal impact.

in Elder Rutter

May 15, 1996
LAWDEPT DRAFT
LCFA/aml/wastewater.ord

**REGULATION OF NONDOMESTIC WASTEWATER DISCHARGES
INTO THE PUBLIC SEWER SYSTEM**

Table of Contents

Sec.	38-266	Definitions	1
Sec.	38-267	Prohibited discharges	7
Sec.	38-268	Maximum constituents	9
Sec.	38-269	Wastewater discharge permits	11
Sec.	38-270	Pretreatment	17
Sec.	38-271	Compliance monitoring	18
Sec.	38-272	Property designation	20
Sec.	38-273	Accidental discharge & spill notification	20
Sec.	38-274	Public notification	21
Sec.	38-275	Confidentiality	21
Sec.	38-276	Administrative enforcement	21
Sec.	38-277	Judicial remedies	23
Sec.	38-278	Termination of service & revocation of permit	24
Sec.	38-279	Appeals	24

Chapter 38 of the New Castle County Code.
Article II

**DIVISION 8. REGULATION OF NONDOMESTIC WASTEWATER
DISCHARGES INTO THE PUBLIC SEWER SYSTEM.**

Sec. 38-266. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Authorized representative shall be defined as under Code of Federal Regulations (CFR) 40 CFR 403.12 (1) (1)-(3).

BMR means Baseline Monitoring Report as defined under 40 CFR 403.12 (b).

BOD, denoting Biochemical Oxygen Demand, means the laboratory determination of the quantity of oxygen by weight, expressed in milligrams per liter, utilized in the biochemical oxidation of organic matter under standard laboratory conditions of incubation for five (5) days at a temperature of twenty (20) degrees centigrade.

Building sewer means a sewer conveying wastewater from the premises of a user to a public sewer.

Combined sewer means a sewer receiving combined waste.

Combined waste means a wastewater containing surface or stormwater.

Composite sample means a sample obtained over a minimum of 6-hour period from a continuous sampling device composing a sample in proportion to flow, or a series of grab samples obtained either manually or with a sampler once each hour and subsequently composited proportionally to the measured flow at the time of each sampling.

Constituent means any analytically defined parameter.

Control manhole means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

Control point means a point of access to a course of discharge before the discharge mixes in the public sewer.

Cooling water means once-through, non-contact cooling water discharged from any system of condensation, air conditioning, cooling, refrigeration, or other sources.

County means New Castle County.

County council means the New Castle County Council.

Director means the Director of Public Works or his or her authorized representative(s).

To discharge means to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

Domestic wastes means a combination of water carried wastes, consisting of wash water, culinary wastes and liquid wastes containing only human excreta and similar matter flowing in or from a building drainage system or sewer originating from residences, business buildings, institutions and commercial establishments.

Effluent means wastewater flowing out of any facility.

EPA means the United States Environmental Protection Agency.

Garbage means animal and vegetable wastes from the preparation, cooking, and disposing of food; and from the handling, processing, storage, and sale of food products and produce.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

Industrial user (IU) means any establishment which uses water in a product or generates a wastewater during any period of production.

Influent means wastewater, raw or partly treated, flowing into any sewage treatment device or facilities.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes

or operations or its sludge processes, use or disposal and, hence causes a violation of the county's NPDES permit or prevents sewage sludge use or disposal in compliance with any federal, state or local statutory/regulatory provisions or permits.

Mass based limitation means the conversion of standard weight-to-volume limitations to an equivalent limitation expressed as the weight of material discharged to the sewer system during a given time interval, expressed as pounds per day of a particular constituent or combination of constituents.

Milligrams per liter (mg/l) means the same as parts per million and is the weight-to-volume ratio of a constituent.

NPDES means National Pollutant Discharge Elimination System as defined in 40 CFR Chapter 1, Part 122.

National Pretreatment Standard means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with subsections 307(b) and (c) of the Clean Water Act, and prohibitive discharge limits established pursuant to 40 CFR Section 403.5.

New Source means any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which is commenced after the publication of proposed National Pretreatment Standards under section 306 of the federal Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 306 of the Act.

Non-domestic waste or industrial waste means any wastewater resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resource, or any mixture of such waste with water or domestic wastewater, as distinct from domestic wastewater.

Nuisance means anything which, by itself or by interaction with other wastes found in sewerage, is injurious to health or is indecent or offensive to the senses or is capable of preventing entrance into the public sewerage system for maintenance and repair.

Overload means the imposition of any constituent or hydraulic loading on a treatment facility in excess of its treatment capacity.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the

county's NPDES permit, including an increase in the magnitude or duration of a violation.

Person means any individual, firm, company, association, society, corporation, institution, group, or any other legal entity.

pH means the negative base 10 logarithm of the hydrogen ion concentration expressed as moles per liter.

Pollutant means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pretreatment means the reduction or elimination of pollutants, or the alteration of the nature of pollutant properties prior to discharging into the public sewer system.

Pretreatment requirement means any substantive or procedural requirement related to pretreatment imposed on a user, other than a National Pretreatment Standard.

Public sewer means a sewer owned and operated by the county or other public agency tributary to a wastewater treatment facility operated by the county or another entity.

Publicly owned treatment works or POTW means any devices or systems owned by a municipality used in the storage, conveyance, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. The term also means the municipality which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Sanitary sewer means a sewer the specific purpose of which is to carry domestic or industrial water or a combination of both, and into which storm water, surface water, groundwater and other unpolluted waters are not intentionally passed.

Sewage means the same as wastewater, as defined.

Sewage treatment works (sewage treatment plant, pollution control plant) means any arrangement of devices, facilities and structures used for receiving, processing, and treating wastewater, industrial wastes, and sludges from the sanitary or combined sewers.

Sewer means a pipe or conduit, generally closed, for carrying wastewater.

Sewer system means all sewers, laterals, or other connections or plants which connect with or pertain to a connection with the sewers, plants, public works, and/or projects of the county including all county owned facilities.

Shredded garbage means garbage shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle having a dimension greater than one-half inch in any direction.

Significant industrial user means any industrial user (IU) subject to Environmental Protection Agency categorical standards; Any noncategorical industrial user that discharges 25,000 gallons per day or more of process wastewater to the sewer or any user that contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; Any user designated as significant by the director on the basis that the user has a reasonable potential for adversely affecting the treatment plant's operation or for violating any pretreatment standard or requirement.

Significant noncompliance means any one of the following:

- (1) Chronic violations of wastewater discharge limits in which sixty-six percent or more of the measurements during a six month period exceed the permit limit for the same pollutant parameter;
- (2) Technical Review Criteria (TRC) violations in which thirty-three percent or more of the measurements for a pollutant parameter taken during a six month period equal or exceed the product of the permit limit multiplied by the applicable TRC. (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH.);
- (3) Any other violation of a pretreatment effluent limit that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through;
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (5) Failure to meet, within 90 days after a schedule date, a compliance schedule milestone contained in the permit or enforcement order for starting construction, completing construction, or attaining final compliance;

- (6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance schedules;
- (7) Failure to accurately report noncompliance;
- (8) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

Slug load or slug means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 38-267 of this Code or any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

Standard Methods means the latest edition of the examination and analytical procedures set forth in the recommended standard analytical techniques prepared jointly by the American Public Works Association (APWA), American Water Works Association (AWWA), and Water Pollution Control Federation (WPCF).

Storm sewer means a public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

Stormwater means the excess water running off from the surface of a drainage area of building during and immediately following a period of precipitation.

Suspended solids (filterable residue) means the dry weight of solids, expressed as milligrams per liter, that either float on the surface of, are in suspension, or are settleable in water, wastewater or other liquids, and which are largely removable by a laboratory filtration device.

Toxic substances means any substance whether gaseous, liquid, or solid, which when discharged to the sewer system in sufficient quantities may tend to interfere with any wastewater treatment process, constitute a hazard to recreation in the receiving waters of the effluent from the wastewater treatment plant, pose a hazard to workers in the sewer system, constitute a hazard to fish or animal life, or interfere with proper sludge disposal.

User means any person that discharges, causes or permits the discharge of wastewater into a public sewer.

User charge means a charge levied on the users of wastewater facilities and treatment works for the cost of operation and maintenance of such facilities and works.

Variance means an approval granted by the director for an industrial user to discharge outside the provisions of this regulation.

Waste means rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic and non domestic activities.

Wastewater means a combination of the water carried waste from residences, business building, institutions, and industrial establishments, together with any ground, surface, and stormwater that may be present, whether treated or untreated, discharged into or permitted to enter a public sewer.

Wastewater constituents and characteristics means the individual chemical, physical, bacteriological, and radiological parameters including volume, flow rate, and such other parameters that serve to define, classify or measure the contents, quality and strength of wastewater.

Wastewater facilities means all facilities for collection, pumping, treating, and disposing of wastewater.

Wastewater treatment plant means sewage treatment works, as defined.

Sec. 38-267. Prohibited discharges.

It shall be unlawful for any person to discharge or permit the discharge or infiltration into any public sewer any of the following:

- (1) Any liquid or vapor having a temperature higher than one hundred and fifty (150) degrees Fahrenheit or any substance which causes the temperature of the total wastewater treatment plant influent to exceed one hundred and four (104) degrees Fahrenheit.
- (2) Any liquid containing fats, wax, grease, non-biodegradable cutting oil or oils of mineral, animal, vegetable, or petroleum origin, whether emulsified or not, in excess of 100 mg/l. Lower limits may be applied where necessary to prevent interference with POTW operations or passthrough.
- (3) Any water or wastes that contain more than 10 mg/l of hydrogen sulfide.

- (4) Any pollutants which create a fire or explosion hazard in the collection and treatment system including, but not limited to, waste streams with a closed-cup flashpoint of less than one hundred and forty (140) degrees Fahrenheit using the test method specified in 40 CFR 261.21.
- (5) Any pollutants which result in the presence of toxic gases, vapors, or fumes within the collection and treatment system in a facility that may cause acute worker health and safety problems.
- (6) Any trucked or hauled pollutants except at discharge points designated by the director.
- (7) Any substances that may:
 - a. Cause obstruction to the flow in a sewer system;
 - b. Interfere with operation of sewage treatment works; or
 - c. Cause excessive loading or overloading of wastewater facilities; or
 - d. Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the incompatibility of the substance and cause violation of state or federal regulations.
- (8) Any discharge into public sewers of solid or viscous substances including but not limited to:
 - a. Ashes
 - b. Cinders
 - c. Sand
 - d. Mud
 - e. Straw
 - f. Shavings
 - g. Metal
 - h. Glass
 - i. Rags
 - j. Paper products, either whole or ground by garbage grinders
 - k. Tar
 - l. Plastics
 - m. Wood or sawdust
 - n. Unground garbage

- o. Whole blood
- p. Paunch manure
- q. Hair and fleshings
- r. Entrails
- s. Feathers
- t. Bones
- u. Slops
- v. Chemical residues
- w. Paint residues
- x. Bulk solids
- y. Syringes

- (9) Any garbage that has not been properly shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half (1/2) inch in any dimension are prohibited.
- (10) Any liquid having a pH lower than 6.0 or higher than 9.0 or having any property capable of causing damage or hazard to structures, equipment and personnel of the sewage works. pH deviations between 5.0 and 11.0 shall be permitted for a total of 10 percent of the time in a 8-hour work shift provided the user installs and operates a pH monitoring device to continuously monitor and record the pH of the discharge.
- (11) Any stormwater, surface water, ground water, roof runoff, interior or exterior footing drainage, subsurface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer.

Sec. 38-268 Maximum constituents.

- (a) *Limitations of concentrations.* The concentration in wastewater of any of the following constituents shall be limited to the following (See also Sec. 38-269):

	INDUSTRIAL POINT SOURCE	
	In MOT Service Area 30-DAY AVERAGE (mg/l)	In Wilmington Service Area 30-DAY AVERAGE (mg/l)
Aluminum	1.50	-
Arsenic	1.00	0.24
Beryllium	0.007	-

INDUSTRIAL POINT SOURCE

	In MOT Service Area 30-DAY AVERAGE (mg/l)	In Wilmington Service Area 30-DAY AVERAGE (mg/l)
Cadmium	0.015	2.00
Chromium, Total	1.50	4.00
Chromium, VI	0.50	-
Copper	0.15	3.00
Lead	0.50	9.00
Mercury	0.001	0.045
Nickel	0.020	1.00
Selenium	0.25	-
Silver	0.015	-
Thallium	5.0	-
Zinc	1.00	14.00
Ammonia as Nitrogen	35.00	35.00
Cyanide, Total	0.30	0.49
PCB	0.0001	-
Phenolics	10.00	10.00
BOD	350	350
Suspended Solids	500	500

- (b) *Additional limitations; acceptance of excess concentrations; special agreements.* Notwithstanding the limitations set forth in subsection (a) of this section, the director may impose additional limitations on mass loading of BOD and other constituents. However, the director may accept the discharge in wastewater of constituents in excess of such concentrations provided that the director determines that such increased concentrations are compatible with the wastewater treatment process. Nothing in this article shall be construed as preventing any special agreement or arrangement between the director and any person whereby an industrial waste of unusual strength or character may be accepted by the director for treatment, subject to the requirements of the National Pretreatment Standards. For such waste, the director may require the user to provide any additional documentation or to conduct any special studies, at the user's expense, as deemed necessary to demonstrate that such waste complies with the limitations specified under section 38-267 and this section. Such waivers shall not be applicable to National Pretreatment Standards. Also, in no case will a special agreement waive compliance with a pretreatment standard or requirement, without prior written approval from EPA.
- (c) *Surcharge fee.* The discharge of constituents in excess of the concentration limits set

forth in subsection (a) of this section, or not specifically limited therein, may be subject to the payment of a surcharge fee, as determined from time to time by the director which surcharge shall be based upon the additional unit cost incurred in the wastewater monitoring, collection, transmission and treatment process attributed to such discharges.

- (d) *Responsibility to meet standards.* The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated. Any industrial discharger required under federal law to meet National categorical Pretreatment Standards for any pollutants shall meet these standards in its discharge provided that such categorical standards are more stringent than the local standards established under subsection(a) of this section for the pollutant. Where categorical standards are less stringent than the local standards the local standards shall apply. The director may revise the discharge limits for specific pollutant(s) covered in the discharger's categorical Pretreatment Standard provided that such revision has been approved by the appropriate state and/or federal authority pursuant to 40 CFR 403.7 of the Clean Water Act. Where the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutants per unit of production, the director may establish equivalent mass-per-day or concentration limitations as provided in 40 CFR 403.6. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined wastewater formula set forth in 40 CFR 403.6(e).
- (e) *Discharge of radioactive materials.* No user shall discharge radioactive materials into public sewers without a discharge permit. The director may establish, in compliance with applicable state and federal regulations for discharge of radioactive wastes into public sewers. In no instance shall the active elements or their local concentrations permitted to be discharged into the sewers exceed the concentration limits established.
- (f) *Dilution prohibited.* Dilution is prohibited as substitute for treatment. Except as provided under federal law, the use of dilution as a partial or complete substitute for adequate treatment to achieve compliance with categorical or local limitations is prohibited. The director may impose mass-based limitations or otherwise modify the limitations to account for dilution in each case.

Sec. 38-269. Wastewater discharge permits.

- (a) *Required.* All non-domestic users proposing to connect or to discharge into a public sewer shall obtain a wastewater discharge permit before connecting to or discharging

into a public sewer. All existing non-domestic users connected to or discharging into a public sewer must apply for a wastewater discharge permit within ninety (90) days of commencing discharge. All industrial users to which the National Pretreatment Standards apply shall submit BMRs in accordance with 40 CFR 403.12.

- (b) *Permit Application.* Users seeking a Wastewater Discharge Permit shall complete and file with the director an application in the form prescribed by the director, and accompanied by any applicable fees. The applicant shall be required to submit, where applicable, in units and terms appropriate for evaluation, the following information:
- 1) Name, address and telephone number of both the facility and the applicant or responsible party.
 - 2) Volume of wastewater to be discharged.
 - 3) Wastewater constituents and characteristics as determined by a laboratory mutually agreed to by the director and the user.
 - 4) Time and duration of discharge.
 - 5) Average and hourly peak wastewater flow rates, and maximum daily flow in gallons per day (GPD) to the POTW from regulated process streams and other streams, including daily, monthly, and seasonal variations, if any.
 - 6) Conceptual site and plumbing plans to show all sewers and appurtenances by size, location and elevation.
 - 7) A general description of activities, facilities and plant processes on the premises including all materials which are or could be discharged to the public sewers, average rate of production, and standard industrial classifications of the operation.
 - 8) Type of product(s) manufactured and raw materials processed and, where known, the nature and concentration of any pollutants in the discharge which are limited by local standards under subsection 38-268 (a) or National Pretreatment Standards.
 - 9) A statement reviewed by an authorized representative of the user and certified by a qualified professional indicating whether the standards are being met on a consistent basis and, if not, whether additional pretreatment and/or operation and maintenance is required to meet applicable standards.

- 10) If additional pretreatment and/or operation and maintenance will be required, the shortest schedule by which the user will provide such pretreatment. The schedule shall contain increments of progress leading to the construction and operation of pretreatment facilities, each increment not exceeding nine (9) months; and the completion date shall be no later than the compliance date established for the applicable categorical Pretreatment Standards.
 - 11) Number of employees, and hours of work.
 - 12) A listing of any environmental control permits held by or for the facility.
 - 13) Any substance discharged which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. The IU shall also notify the POTW, EPA, and State Hazardous Waste Agency in accordance with 40 CFR 403.12(p)(1).
 - 14) Results of sampling and analysis identifying the nature and concentration, and/or mass (where required by the standard or by the director) of pollutants in the discharge from each regulated process; instantaneous and daily maximum and long-term average concentrations or mass (where required) and, any other information, such as written proof of zoning approval, as may be deemed by the director to be necessary to evaluate the permit application.
- (c) *Draft permit.* The director will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the director may issue within forty-five (45) days a draft wastewater discharge permit. A forty-five (45) day comment period shall be allowed all users, and thereafter the director may issue a wastewater discharge permit subject to the terms and conditions in this division.
- (d) *Permit conditions.* Wastewater discharge permits shall be expressly subject to all provisions of these regulations and all other regulations, user charges, and fees established by the county. The conditions of wastewater discharge permits shall be uniformly enforced by the director. The director may deny or condition new or increased contributions of pollutants or changes in the nature of pollutants to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES Permit. Wastewater discharge permits may contain the following:
- (1) The unit charge or schedule of user charges and fees for the wastewater to be

discharged to a public sewer.

- (2) Limits on the average and maximum wastewater constituents and characteristics consistent with the applicable discharge standards in section 38-268, and the monitoring frequency established for the discharge.
- (3) Limits on rate and time of discharge or requirements for flow regulation.
- (4) Requirements for installation of inspection and sampling facilities.
- (5) Pre-treatment requirements, including National Pretreatment Standards.
- (6) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule.
- (7) Penalties for violation(s) of the permit as specified in section 38-277 and the Pretreatment Program Enforcement Response Plan.
- (8) Requirements for maintaining plant records relating to wastewater discharge and for providing access to the records for inspecting and copying.
- (9) Compliance schedules containing increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment or other means required for the discharger to meet the applicable discharge standards (e.g. hiring an engineer, completing preliminary plans, executing contracts, etc.); Increments of progress shall not exceed nine (9) months.
- (10) The requirement to notify the county in advance of any substantial change in the volume or character of pollutants in the discharge.
- (11) Other conditions as deemed appropriate by the director to ensure compliance.

(e) *Reporting requirements.*

- (1) Certification. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- (2) Discharge of hazardous waste. The IU shall notify the POTW, EPA, and State Hazardous Waste Agency in accordance with 40 CFR 403.12(p)(1) in the event of a discharge into the public sewer system of any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.
- (3) Filing of Periodic Discharge/ Compliance Progress Reports. The discharge report may include, but not be limited to wastewater volume rates of flow, constituent concentrations and mass emission rates, hours of operation, number of employees, or other information which relates to the wastewater discharge to the sewers. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in subsection 38-269 (b). For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, the report shall include the actual average production rate for the appropriate sampling period. The IU shall sign and certify all compliance reports in accordance with subsection 38-269 (b)(9); and, not later than 14 days following each date in the schedule and the final date for compliance, the IU shall submit its progress reports on the compliance schedules stated in subsections 38-269(b)(10),(d)(9), and this subsection.
- (4) Submission of Analytical Results. IUs shall submit the results of all self-monitoring data which are collected at regulated point(s) of compliance and analyzed pursuant to 40 CFR 136.
- (f) *Duration of permit.* Permits shall be issued for a specified time period, not to exceed

five (5) years. A permit shall be issued for a period of not less than a year or may be stated to expire on a specific date. The terms and conditions of the permit may be subject to modifications and change by the director during the life of the permit as limitations or requirements are modified and changed. The user shall be informed of any proposed changes in the permit at least ninety (90) days prior to the effective date of change. All users shall be allowed a comment period, relating to any of the proposed changes in his or her permit and which shall be the first forty-five (45) days of the ninety (90) day period prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- (g) *Transfer of permit.* Wastewater discharge permits shall be issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- (h) *Variances.* Where the director finds that the strict compliance with provisions of this section is not justified, the director may approve a variance to specific provisions of this section provided that the variance shall not have the effect of nullifying the intent and purpose of this section. No variance shall be given to National categorical Pretreatment Standards, National Prohibitive Discharge Standards, and state Pretreatment Standards and requirements. For the purpose of permit fees, a permit variance shall take into account one or multiple variances within the same permit.
- (i) *Permit fees.*
 - (1) The wastewater discharge permit billing period shall be from July 1 to June 30 of the following year. The permit fees shall be paid annually by July 31.
 - (2) The fees to be paid for the issuance and/or modification of wastewater discharge permits and/or granting of variances shall be as follows:

Permit Category	Fee
Significant Industrial User (SIU) Permit (annual)	\$4,000
SIU Permit Amendment (each occurrence)	\$2,000
Other Industrial User (IU) Permit (annual)	\$1,500
IU Permit Amendment (each occurrence)	\$ 750
Permit Variance(s) (annual)	\$1,000

- (3) Initial permit fees shall be paid within thirty (30) days of effective date, and

shall be prorated as follows:

- a) If permit is issued July 1 through August 31, the full amount shall be paid.
 - b) If the permit is issued September 1 through June 30, 10% of the full amount for each full month prior to July 1 shall be paid.
- (4) Fees collected shall be deposited in the sewer fund.
- (5) Permit fees shall be effective July 1, 1991.

Sec. 38-270. Pretreatment.

- (a) Under this division, grease, oil, and sand removal equipment shall be provided when in the opinion of the director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients. All equipment shall be of a type and capacity approved by the director and shall be located so as to be readily and easily accessible for cleaning and inspection.
- (b) Where preliminary treatment facilities are required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense. To aid the director, the owner, subsequent to the commencement of operation of any pretreatment facilities, shall make periodic reports to the director setting forth data upon which he or she may determine the effectiveness and adequacy of such facility in reducing the concentrations of constituents to acceptable limits. Any approval by the director of a type, kind, or capacity of a facility shall not relieve the owner of the responsibility of revamping, enlarging, or otherwise modifying a facility to accomplish its intended purpose to the degree necessary to comply with the rules and regulations, or of the requirements of a discharge permit.
- (c) The director shall evaluate whether each significant industrial user (SIU) needs an accidental discharge/slug control plan. The director may require any SIU to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the description of discharge practices, including nonroutine batch discharges; description of stored chemicals; procedures for immediately notifying the director of any accidental or slug discharge, as required by subsection 38-271 (6); and procedures to prevent adverse impact from any accidental or

Sec. 38-272. Property designation.

- (a) *Compliance.* Any tenant of real property as described in the following subparagraphs of this section shall comply with all the rules and regulations of this article.
- (b) *Firm with multiple buildings.* Where a firm is operating as an integrated manufacturing complex, involving more than one building with varying processes and having separate sewer connections within the same contributory area, such firm may be considered as one unit with multiple sewers. An analysis for each building sewer, based on separate samples and flows taken at each building sewer, may be combined and the weighted average of the results thus obtained may be used as the measure of the constituent concentration of the wastes discharged into the sewer system by said firm.
- (c) *Industrial park and/or industrial building complex.* Where a parcel of real property is occupied by multiple buildings having tenants with unrelated manufacturing processes, each building shall be considered a separate source of constituents.
- (d) *Multi-tenanted industrial buildings.* Where a parcel of real property is occupied by a multi-tenanted industrial building connected to the sewer system by one or more sewers and the tenants in said building discharge wastewater into the drainage system, each tenant shall be considered a separate source of constituents and the constituent concentration shall be determined at sampling locations selected by the director for each source.

Sec. 38-273. Accidental discharges and spill notification.

- (a) *Notification of discharge.* Users shall notify the director immediately (within twenty-four hours by telephone) upon accidentally discharging wastes in violation of these regulations to enable countermeasures to be taken to minimize damage to the public sewer, treatment facility, treatment processes and the receiving waters.

Such notification shall be followed, within five (5) working days of the date of occurrence, by a detailed written statement to the director describing the causes of the accidental discharge and the measures being taken to prevent future occurrence.

- (b) *Notices to employees.* In order that employees of users be informed of these requirements, users shall make available to their employees copies of these regulations and other wastewater notices which may be furnished by the director relating to more effective water pollution control. A notice shall be furnished and permanently posted

on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of these regulations.

- (c) *Preventive measure.* The director may require users to develop spill prevention plans where there is a potential for adverse input.

Sec. 38-274 Public notification.

The director shall annually publish in the newspapers a list of the industrial users which were in significant noncompliance with any pretreatment requirements or standards during the twelve (12) previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same twelve (12) months.

Sec. 38-275 Confidentiality

Information and data on an industrial user from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the director that the release would divulge information, processes, or methods of production entitled to protection as trade secrets of the user. Wastewater constituents and characteristics will not be recognized as confidential information.

Sec. 38-276 Administrative enforcement.

- (a) *Responsibility for enforcement.* All rules and regulations described in this division shall be enforced by the director or his or her authorized representative.
- (b) *Notice of violation.* Whenever the director finds that any industrial user has violated or is violating this division, or a permit or order issued under this division, the director or his or her agent may serve upon said user a written notice of violation. Within ten (10) working days of receipt of this notice, the industrial user shall submit to the director an explanation of the violation. Within twenty (20) working days of receipt of this notice, the industrial user shall submit to the director a plan for satisfactory correction and prevention of potential future violations, including specific required actions.

Submission of this plan shall not relieve the user of liability for any violation(s) occurring before or after the receipt of the notice of violation.

- (c) *Show cause hearing.* The director may order any industrial user which contributes to violation of this division, or permit or order issued under this division, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) working days prior to the hearing. Such notice shall be served to any principal executive, general partner or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.
- (d) *Administrative order.* When the director finds that an industrial user has violated or continues to violate this division, or permit or order issued under this division, he or she may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate pretreatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, self-monitoring, and management practices.
- (e) *Administrative fines.* Notwithstanding any other section of this division, any user who is found to have violated any provision of this division, or permit or order issued under this division, shall be fined in an amount not to exceed one thousand dollars (\$ 1,000) per violation plus actual damages to the POTW. Each day on which noncompliance shall occur, or continue, shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge or the assessment may be collected according to any other remedies available to the director. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users disputing such fines must send within ten (10) working days of receipt of notification of the fine a written request to the director for reconsideration. Where the director believes the dispute has merit, he or she shall convene a hearing on the matter within thirty (30) working days of receiving the request from the industrial user.
- (f) *Termination of service*
 - 1) *Emergency suspensions.* The director may suspend the wastewater treatment service and/or the permit of an industrial user whenever such suspension is

necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the collection and treatment system, or the environment.

Any user notified of a suspension of the wastewater treatment service and/or permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply with the suspension order, the director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the collection and/or treatment system, its receiving stream, or endangerment to any persons. The director shall allow the user to recommence its discharge when the endangerment has passed, unless termination proceedings are initiated against the user as set forth below.

- 2) *Continuing noncompliance.* The director may, upon thirty (30) days notice to the industrial user, revoke the permit and/or terminate service to the user unless, at the expiration of such period, the director is satisfied that the user is making satisfactory progress to eliminate or correct the conditions which caused such notice.

Sec. 38-277. Judicial remedies.

(a) *Injunctive relief.* Whenever an industrial user has violated or continues to violate this division or permit or order issued under this division, the director, through counsel, may petition the court for the issuance of a temporary or permanent injunction or both to restrain or compel the actions of the industrial user.

(b) *Civil penalties*

- 1) Any industrial user who has violated or continues to violate this division or any order or permit issued under this division, shall be liable to the county for a civil penalty of not more than \$5,000 plus actual damages incurred to the POTW. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. In addition, the director may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.
- 2) The director, through counsel, shall petition the court to recover civil penalties. In determining the amount of liability, the director shall take into account all

relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other relevant factor.

(c) *Criminal prosecution*

- 1) *Violations.* Any industrial user who willfully or negligently violates any provision of this division or any order or permit issued under this division shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$5,000 per violation per day or imprisonment for not more than one year or both.
- 2) *Falsifying information.* Any industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this division or permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this division shall, upon conviction, be punished by a fine of not more than \$5,000 per violation per day or imprisonment for not more than one year or both.

Sec. 38-278. Notification of proposed termination of service and/or revocation of discharge permit.

The director shall not terminate service to a user and/or revoke a discharge permit, except in an emergency, without first delivering to the user written notice of such proposed termination and/or revocation. The notice shall state the reason or reasons of said termination and/or revocation and shall allow a reasonable time for satisfactory compliance to meet the wastewater constituent and/or characteristic limitation(s) that are being violated.

Sec. 38-279. Appeals.

Any industrial user, permit applicant, or permit holder affected by any decision, action or determination made by the director, interpreting or implementing the provisions of these regulations or in any permit issued under this division, may file with the director a written request for reconsideration within ten (10) working days of such decision, action or

determination, setting forth in detail the facts supporting the user's request for reconsideration. The director's decision, action or determination shall remain in effect during such period of reconsideration. Any person aggrieved by a decision of the director may appeal such decision in any manner provided by law.

